

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 8th day of June 1998

BEFORE

THE HON'BLE MR. JUSTICE G.C. BHARUKA

WRIT PETITION NO.10152 OF 1998

Between:

Sri A.K. Lakshmaiah,
S/o Hulappa,
Aged about 45 years,
(Ex. S.D.A., now discharged in
Munsiff and JMFC Court,
Molakalmuru,)
R/o Salehalli Post,
Jagalur Taluk,
Chitradurga Dist. ... Petitioner.
(By Sri K.M. Eswarappa, Advocate).

And:

1. The Registrar,
High Court of Karnataka,
Bangalore.
2. The District and Sessions
Judge, Chitradurga. ... Respondents.
(By Sri G.Papi Reddy, AGA).

This writ petition is filed under Article 226
of the Constitution of India praying to quash

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Annexure-D dated 27-6-96 passed by respondent No.2,etc.

This writ petition coming on for preliminary hearing this day, the Court made the following:-

O R D E R

Heard the learned counsel for the petitioner.

2. This writ petition has been filed inter alia seeking quashing of the order dated 27-6-96 (Annexure-D), by which the petitioner has been discharged from service. Admittedly the petitioner was working as a Second Division Assistant in the Court of Munsiff & JMFC, Molakalmur. He was still on probation. The plea taken is that no reasons have been assigned for the discharge in the impugned order. It has also been submitted that no enquiry has been proceeded with before passing of the impugned order. In my opinion, the submissions are of no consequence in law as held by the Supreme Court in the case of GOVERNING COUNCIL OF KIDWAI MEMORIAL INSTITUTE OF ONCOLOGY, BANGALORE v. Dr. PANDURANG GODWALKAR & ANOTHER reported in

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AIR 1993 SC 392. In paragraph 8 of the said Judgement it has been held thus:

" 8. Even if such employee while questioning the validity of an order of termination simpliciter brings on the record that some preliminary enquiry or examination of some allegations had been made, that will not vitiate the order of termination. Reference in this connection may be made to the case of Oil and Natural Gas Commission v. Dr. Mohd. S. Iskender Ali, (1980) 3 SCR 603:(AIR 1980 SC 1242), where it was pointed out that a temporary employee/^{is} appointed on probation for a particular period "only in order to test whether his conduct is good and satisfactory so that he may be retained." It was also said that even if misconduct, negligence, inefficiency may be the motive or the influencing factor which induced the employer to terminate the service of the employee which such employer admittedly had under the terms of the appointment, such

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termination cannot be held to be penalty or punishment. Same view has been reiterated in connection with appointment on temporary or ad hoc basis in the cases of Ravindra Kumar Misra v. U.P.State Handloom Corp. Ltd., (1987) Suppl.SCC 739:(AIR 1987 SC 2408); State of Uttar Pradesh v.Kaushal Kishore Shukla, (1991) 1 SCC 691: (1991 AIR SCW 793) and Triveni Shankar Saxena v. State of U.P., (1992) 1 JT (SC)37: (1992 AIR SCW 110)."

In view of the above Judgment this writ petition is dismissed.



Sd/-
JUDGE

rsk